

Application No.: 09/037,822

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REMARKS

Claims 29, 33, 37, 41-47, 50 and 52 are pending in the present application. Applicant notes with appreciation the allowance of claims 29, 33, 37, 47, 50 and 52. Reexamination and reconsideration are respectfully requested.

The Examiner rejected claims 41, 45 and 46 under 35 U.S.C. § 112, first and second paragraphs. The Examiner contends that the term "initial data" is unclear and not enabled by the specification.

Applicant respectfully submits that the term "initial data" in claims 41-46 is clear and enabled by the specification. The present invention generally relates to transmitting music data, such as MIDI data, over a communication network to an apparatus such as a personal computer. The term "initial data" simply represents the first data of music data sequentially transmitted over the communication network to the computer.

When the computer receives the first data, it performs a time adjustment that it does not perform on subsequently received data. Such a process is explained in the specification beginning at page 20, line 25 and continuing to page 21, line 10 and illustrated in Fig. 7. Fig. 7 displays a reception process to be executed by a computer. At step SB1, data on the internet is received. At step SB2, the flag "Receive" – which is initially set to "0" – is checked. If the flag is "0" (i.e., not "1"), the data received is the first data. The reception process then flows to step SB3 where a time adjustment is made. The flag is then set to "1" at SB4. When data is subsequently received by the computer, the flag is checked. Because the flag has been set to "1," the reception process flows directly to step SB6 and does not execute the time adjustment. Thus, Fig. 7 and the accompanying cited specification section illustrate how the computer can determine or judge whether received data is initial data. Applicant respectfully submits that Fig. 7 and the cited specification section enable the term "initial data" in claims 41-46.

The Examiner maintained his rejection of claims 41-46 under 35 U.S.C. § 103(a) in view of Moline et al. (US 5883957), Isozaki (US 5,999,905) and Shioda (US 5,430,243). In the

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"Response to Amendment" section of the Office Action, the Examiner requests the Applicant to specifically point out the language of claims 41-46 patentably distinguish from the cited portions of the references.

Claim 41 recites "a judging device that judges whether said received music data is initial data from the external device or not" Support for this claim recitation is found in the specification and figures, such as the specification section and Fig. 7 discussed above. Applicant respectfully submits that Moline, Isozaki and Shioda do not judge whether the received music data is initial data.

Moline, which the Examiner relies on for disclosing this recitation, discloses a web browser having a MIDI plugin (see Col. 9, lines 42-57). When the browser receives a MIDI inclusion, the MIDI plugin fetches the inclusion. The plugin has file reader that reads the MIDI events in the inclusion and converts the elapsed time descriptor to a time stamp. The Examiner remarks that the browser determines whether the received data is "'initial' or encrypted, or not completely received, Web enabled, or of a certain format" If the data is of an acceptable type (e.g., completely received or encrypted), the browser will act on the data to allow the MIDI plugin to fetch the inclusion. If the data is not of an acceptable type (e.g., not completely received or not encrypted), the browser will presumably not act on the data. However, determining whether the received data is completely received or encrypted is different from determining whether the received data is initial data, i.e., the first data of the received data. One embodiment of the present invention, as discussed above, checks a flag to make this determination or judgment. Moline does not disclose any such mechanism – or, for that matter, any mechanism – for judging whether the received data is initial data. Accordingly, Applicant respectfully submits that Moline does not disclose "a judging device that judges whether said received music data is initial data from the external device or not"

Isozaki and Shinoda does not disclose receiving music data from an external device via a public communication line and, thus, fail to disclose a judging device for judging whether the received music data is initial data received from an external device. Accordingly, Applicant

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respectfully submits that claim 41 and its dependent claims 42-44 are patentable over the cited references, because none of the cited references discloses the recited judging device.

Applicant further submits that claim 41 and its dependent claims are patentable over the cited references because none of the references discloses "a controlling device that rectifies said first time information by a predetermined value and sets the rectified first time information as second time information for the music data processing apparatus when said judging device judges said received music data is initial data and does not set the first time information as the second time information when said judging device judges said received music data is not initial data" Because the references do not disclose judging whether the received data is initial data, they cannot and do not disclose performing the recited time rectification based on judging whether the received data is initial data or not. Accordingly, Applicant respectfully submits that claims 41-46 are patentable over the cited references on this basis as well.

Claims 45 and 46 both recite "judging whether said received music data is initial data received from an external device or not" and "rectifying said first time information by a predetermined value and setting the rectified first time information as second time information for the music data processing apparatus when said judging step judges said received music data is initial data and not setting the first time information as the second time information when said judging step judges said received music data is not initial data" For the reasons set forth above with respect to claim 41, Applicant respectfully submits that these claims are also patentable over the cited references.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicant requests that the Examiner contact the undersigned attorney at the Los Angeles

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telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 393032003100.

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Respectfully submitted,

By 

Mehran Arjomand

Registration No.: 48,231

MORRISON & FOERSTER LLP

555 West Fifth Street, Suite 3500

Los Angeles, California 90013

(213) 892-5200

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